

Security policies are intertwined with safety policies, and many of the Under Secretary's functions are closely linked to other agencies of the federal governmental, such as the modal administrations responsible for transportation safety at the Department of Transportation. Further, many duties overseen by the Under Secretary have been and will continue to be performed by the Coast Guard. All of these functions will have to be carefully coordinated under Congressman Hutchinson's leadership.

The Under Secretary will face many difficult challenges, including those associated with the very serious situation at our southern border. For example, Arizona has been a leading gateway for illegal immigrants into the U.S. since the mid-1990s. Illegal immigrants are dying along on our borders. The attrition rate for Border Patrol Agents and INS inspectors has reached alarming levels. We have reached the point where we now have private citizens taking up arms and forming militia groups to patrol the border because they feel the federal government has failed to protect them. Just yesterday, the Wall Street Journal reported about the death of a U.S. Park Ranger in Arizona who was killed last August along the border, the fourth ranger killed in the line of duty since 1990. Further, uncompensated emergency and medical care provided to undocumented immigrants has left many border hospitals on the verge of financial ruin. Leadership and attention must be paramount in any effort undertaken by the Under Secretary to adequately address the wide range of border security issues, including how to ensure adequate resources are deployed for enforcement purposes.

Yesterday, the Commerce, Science, and Transportation Committee held its hearing to consider Congressman Hutchinson's nomination. We unanimously approved his nomination earlier today. The new Under Secretary will certainly have our Committee's full support as he takes on the many great challenges that he will face in his new position. The American public is very fortunate to have such a fine, capable, hardworking citizen agree to take on the immense responsibilities associated with this public service position.

I urge my colleagues' swift confirmation of Congressman Hutchinson.

Mr. LEAHY. Mr. President, the Senate today considers the nomination of Asa Hutchinson to become the first Undersecretary of Border and Transportation Security for the Department of Homeland Security. I will vote for this nomination, but not without reservations.

In addition to his service as head of the Drug Enforcement Administration, most of us in the Senate also know Asa Hutchinson from the substantial amount of time he spent on the floor of the Senate a few years ago during the impeachment trial of President Clinton. He and I were both involved in the deposition phase of that trial, and although we reached opposite conclusions on the question of impeachment, I found him to be a skilled attorney and advocate for his position, and a very likable colleague.

Because of my respect for him, I expedited his 2001 nomination to head the DEA. I noticed a hearing only days after becoming chairman of the Judiciary Committee, held the hearing the following week, and scheduled a committee vote for the earliest possible time. I then worked with Senator DASCHLE to have the full Senate consider his nomination as quickly as possible.

In his role as administrator, I believe he has done many things well. I do, however, have two concerns I would like to express today.

At his confirmation hearing to head the DEA, I asked Mr. Hutchinson whether the Federal Government should make it a priority to prosecute people who distribute marijuana to ill people in States that have legalized marijuana for medicinal use. He said he wanted to work with the Attorney General and develop an appropriate policy to reflect the Federal-State tensions involved in the issue. If such a policy was developed, I am unaware of it. In practice, the DEA under Administrator Hutchinson's leadership took a very tough line against the use of marijuana for medical purposes, launching a number of raids in California against individuals and groups that were operating in compliance with California law.

In Vermont, we are experiencing severe and growing problems with heroin

abuse and our law enforcement officers face extraordinary burdens, it is problems like that that should be a priority for the DEA. Administrator Hutchinson's decision to use substantial Federal resources to crack down on the use of marijuana by ill people strikes me as setting the wrong priority, and certainly a different priority than he identified at his hearing.

I am also concerned by recent reports that Administrator Hutchinson made extensive use of Government planes at significant taxpayer expense for public appearances, while previous administrators flew commercially for similar events. If these reports are true, he would not be the first member of the Department of Justice to make questionable use of taxpayer dollars for travel. Similar questions were raised in 2001 about Attorney General Ashcroft's reliance on chartered planes. In addition, Hispanic agents have criticized Mr. Hutchinson for allowing the expiration of a committee that had been formed to brief the administrator on the concerns of Hispanic agents. I have not had the opportunity to discuss these accusations with him and his confirmation hearing for this post was not held before the Judiciary Committee. I would encourage Mr. Hutchinson to take affirmative steps to run an inclusive agency.

In his new position, Mr. Hutchinson will be responsible for ensuring that our borders are safe. I have worked extensively to strengthen our northern border, particularly since the terrorist attacks of September 11, 2001. I know that the personnel who protect our border are excellent, and I also know that they need more help. That is why I included provisions in the USA PATRIOT Act to triple INS and Customs personnel at the northern border, and to invest in improved technology and equipment to monitor the border. I look forward to working closely with Mr. Hutchinson to ensure that these provisions are finally and fully implemented and our borders are secure.

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#### LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.